

**Lao People's Democratic Republic**  
Peace Independence Democracy Unity Prosperity

Prime Minister Office

Ref: 162/PM

**DECREE**  
**on**  
**Border Trade Zone at Boten, Louangnamtha Province**

- Pursuant to the Law on the Government of the Lao PDR No. 01/95, dated 08 March 1995;
- Pursuant to the Business Law No. 03/94/NA, dated 18 July 1994;
- Pursuant to the Customs Law No.04/94, dated 18 July 1994;
- Pursuant to the Law on Promotion and Management of Foreign Investment in Lao PDR No. 01/94, dated 14 March 1994;
- Pursuant to the Law on Domestic Investment Promotion No. 03/95/NA, dated 14 October 1995;
- Pursuant to the Tax Law No. 04/95/NA, dated 14 October 1995;
- Pursuant to proposal of the Minister of Commerce no 0462/MOC.PSO, dated 22 April 2002.

**The Prime Minister Decrees:**

**CHAPTER I**  
**General Provisions**

**Article 1: Functions of the Decree**

This Decree is issued to set out rules and policies on the establishment and management of Boten border trade zone, Louangnamtha Province, aiming at promoting investment, production of goods, exportation, importation, re-exportation, transit and services, employment and income generation that will contribute to the national socio-economic development.

**Article 2: Boten border trade zone**

Boten border trade zone, Louangnamtha Province, hereafter is referred to as "BBTZ" is a zone that promotes production, trade and services based on special management and various forms of special treatments provided by the government to approved businesses which are established and operated within the Boten border trade zone.

**Article 3: Scope of Boten border trade zone**

The area of Boten border trade zone starts from the borderline of Boten Laos-China along the road numbers 1 to Nateuy T-junction, which is 2 km wide from the center of the road to be used for Boten border trade zone. It can be divided into three main areas:

- Area for **trade and services**, located in area starting from Boten border checkpoint Laos-China to Nateuy T-junction 5 Km.
- Area for **industry and processing**, located in area starting from Km 5 to Km 15 from area for trade and service to Nateuy T-junction.
- Area for Boten border trade zone administration, office of customs authority, duties free warehouse and other government offices are located from Km 15 to Nateuy T-junction.

Article 4: Basic principles of the operation within the Boten border trade zone

All operations within the border trade zone shall be conducted in accordance with the rules set out in this Decree.

In case issue which is not stipulated in this Decree arises, the provisions of the relevant laws and regulations shall be applicable such as the Business Law, Domestic Investment Promotion Law, Foreign Investment Promotion Law, Law on Bank of Lao PDR, Customs Law, Tax Law, Labor Law including agreements and international treaties to which Lao PDR is a party.

Article 5: Allowed business and organizations

Business and organizations that are allowed to be established and operated in the border trade zone are composed of:

- Trading business such as department store, exhibition hall, import, export re-export and transit trade business;
- Production and processing business such as production for domestic consumption and export, production of handicrafts, processing, packaging and assembly industries.
- Services business such as transportation of goods, warehousing, insurance, banking, post and telecommunication, schools, hospitals, restaurants, sports, tourism, hotels and other activities specially approved by the government.
- Branches and representative offices of domestic and foreign business.

Article 6: Investors

The government of the Lao PDR encourages individuals and juristic entities that are Lao citizens including Laotians residing abroad, foreign residents, persons without nationality residing in Lao PDR and foreigners to invest in the Boten border trade zone in the business sectors specified in Article 5 above.

Article 7: Type, Method and Form of Investment

Investment in the border trade zone can be made in:

- Any state owned enterprises, co-operative enterprises, and private or mixed enterprises;
- Any form of individual enterprises or companies;
- Any partnership or limited company, public company.

These forms of business are stipulated in the Business Law of the Lao PDR.

Article 8: Establishment of basic infrastructure of the Boten border trade zone

The government of the Lao PDR encourages any form of economic investment, both domestic and foreign, in establishing basic infrastructure of the Boten border trade zone according to the design and plan approved by the government.

Article 9: Protection of rights and benefits to investors

Assets and investment including other benefits that is legally belong to the investors in the Boten border trade zone, are fully protected by the laws and regulations of the Lao PDR and the agreements and international treaties to which Lao PDR is a party.

Article 10: Validity term of investment

Investors operate their own business in the Boten border trade zone within the terms set out in their investment license.

## **CHAPTER II**

### **Application for Investment, Rights and Obligations of Investors**

Article 11: Application for investment

Any person wishing to establish and operate business or invest in the Boten border trade zone shall directly apply for a license to operate its business from the management committee of the Boten border trade zone.

The granting of license shall be done within a maximum of 10 days from the date of application for an investment license submitted.

Article 12: Rights and benefits of investors

Rights and benefits of investors in the Boten border trade zone are as follow:

- To lease land;
- To make use of services available in the Boten border trade zone;
- To export products produced, assembled or processed within the zone, import equipment, raw materials and (production) vehicles that are necessary to business;
- To recruit and employ labor pursuant to the Labor Law of Lao PDR;
- To transfer its capital or income back to its country or third country as stipulated in the Law on the Promotion and Management of Foreign Investment in the Lao PDR;
- To transfer ownership, management right and usage right as provided in the relevant laws of the Lao PDR;
- To receive incentives and other benefits as set out in this Decree.

Article 13: Obligations of investors

Investors in the Boten border trade zone have following obligations:

- To pay all duties, taxes and other obligations according to the laws;
- To cooperate with the Boten border trade zone management committee in carrying out its tasks.
- To open an account in kip and foreign currency in the allowed bank operating in the Boten border trade zone or other banks located in Lao PDR;
- To follow the accounting report system as stated in the Enterprise Accounting Law of the Lao PDR;
- To maintain peace and social order, ensure occupational health and safety, prevent fire accidents, and maintain sanitary and environment;
- To follow other rules and regulations set out by the Boten border trade zone management committee.

### **CHAPTER III**

#### **Incentives in the border trade zone**

**Article 14: General incentives**

The government of the Lao PDR encourages and promotes investment in the Boten border trade zone by providing various forms of incentives as stated in the Law on Promotion and Management Foreign Investment and the Law on Promotion of Domestic Investment. In addition, there are other incentives as stipulated in this Decree.

**Article 15: Tax incentives**

Investors in the Boten border trade zone will receive various forms of tax exemptions or rebates as follow:

- Turnover tax exemption, except for certain cases as stated in this Decree;
- Profit tax exemption within consecutive 4-year period starting from the first year of having profit. After that, the following 4 years which is called “grace period”,

Article 17: Selling goods produced, assembled and processed in the Boten border trade zone into domestic market

Products or goods that are produced, assembled and processed in the Boten border trade zone may be allowed to enter into the Lao domestic market provided that import duty has been paid at the rate of 10% of the normal rate for each type of goods.

As for the products and goods produced and processed with local content of more than 20% of the total value of the product, when they are allowed to enter into the domestic market, a concession rate of import duty will be provided. Such concession rate will be equal to the rate of such components used.

Article 18: Goods for exhibition or trade fair

Import duty exemption will be provided to products or goods imported in to the Boten border trade zone to be displayed in the exhibition or trade fair. However, when such products are sold in the Boten border trade zone, there shall be a requirement to pay a turnover tax of 20% of the normal rate according to the Tax Law of Lao PDR.

Article 19: Use of profit for reinvestment

The business of the Boten border trade zone that uses all of the profits received in each year to reinvest in any business in the Boten border trade zone for a period of more than 3 consecutive years shall receive back all the amount that were paid to the tax authority as payment for profit tax by deducting the profit tax of the following year.

Article 20: Measures to help investors

After the end of the exemption period from payment of profit tax as stated in Article 15 of this Decree if any business makes loss, such business can transfer the loss to be deducted from profit tax of the following year, however, such transfer shall not exceed 5 years from the first year of loss.

The tax authority shall certify the correctness of the amount of loss as mentioned in the paragraph above.

Article 21: Land lease fee

Investors in the Boten border trade zone shall receive an exemption from payment of land lease fee at the beginning for a period of consecutive 7 years from the day the land lease contract is signed. After that from the 8<sup>th</sup> year the investors shall pay for the land lease fee at the determined rate. This measure applies only to the Boten border trade zone.

Article 22: Profit repatriation

Foreign investors who run business and foreign residents who work in the Boten border trade zone can repatriate their profits or income derived from running business to their home or the third countries through the banks located in Lao PDR by using the exchange rate of the Bank of Lao PDR.

Article 23: Bonus or Incentive money

Any individual or organization that can raise capital, excluding capital from the state budget, to be invest in the socio- economic projects in the Boten border trade zone without capital withdrawal, shall be given bonus or incentive money according to the regulations concerned.

The Louangnamtha provincial administration and the management committee of the Boten border trade zone shall develop a regulation on the provision of bonus and incentive money to be proposed to Ministry of Finance for promulgation.

Article 24: Capital for the establishment of basic infrastructure of the Boten border trade zone

At the first 6 years period, the government shall provide budget for the establishment of basic infrastructure of the Boten border trade zone as set out in the plan. Such budget shall not be less than 50% of the actual source of annual income in such border trade zone, excluding volume of import and export transit of such international checkpoints.

The Administrative Authority of Louangnamtha Province shall manage and use such budget.

The Administrative Authority of Louangnamtha Province shall prepare the detailed annual expenditure plan for an establishment of basic infrastructure of the zone to be proposed to the Committee for Planning and Cooperation and Ministry of Finance for approval.

## **CHAPTER IV**

### **Exportation, Importation, re-exportation and transit transaction**

Article 25: Export and import

All types of merchandises, equipment, transport vehicles or means of production including personal belongings entering into and exiting from the Boten border trade zone shall be gone through the designated checkpoints and inspected by the customs authority.

All business in the Boten border trade zone can import or export all types of merchandises and accessories/effects relating to their business activities, except for those prohibited by the government.

Article 26: Sales of merchandises to



The entry into and exit from the zone shall go through only the designated ports.

Article 32: Entry and exit of the Chinese people

Chinese people who live in the proximity provinces sharing border with Luangnamtha Province can enter into and exit from the zone by presenting their border-pass issued by the relevant Chinese Authority and stay in the zone not more than 7 days. In case they want to enter into other parts of Laos beyond the zone, the immigration regulation of Lao PDR shall be applied.

As for other Chinese citizens besides the ones mentioned above also can enter into the zone, but they have to show their border-pass or passports issued by the relevant Chinese authority. Those people can stay in the zone not more than 15 days. In case they want to enter into other parts of Laos beyond the zone, the immigration regulation of Lao PDR shall be applied.

Article 33: Entry and exit of the Laotian

All Laotian can regularly enter or exit the Boten border trade zone. In case, they want to pass beyond the border trade zone or through the territory of China, the immigration regulation of China shall be applied. If it is the transit journey to third country through Boten border trade zone the immigration regulation of China is applied.

Article 34: Entry/Exit, lodging of foreign investor, enterprise staff and workers

Foreign investors, as well as employees and workers of both foreign and Lao citizenships, who work in the Boten border trade zone, shall be able to regularly enter or exit from the Boten border trade zone by showing an entry/exit card or a permit which is issued by the immigration office in the zone. For the temporary and long period of stay inside the zone, the zone management authority shall issue detailed regulations.

Article 35: Entry and exit for the other foreigners

Other foreigners mean foreigners who are not investors as stated in the Article 6 of this Decree.

For enter and exit to/from the zone of the other foreigners, the permit shall be considered base on two characteristics:

- For enter and exit of the foreigners on the regular basis will be permitted multiple entries/exits by the Public Security Divi



Article 36: Rights of the immigration office at the zone

The immigration office at the Boten border trade zone has the right to issue entry and exit license to investors, employees and workers who work in the zone

## **CHAPTER VI**

### **Financial and Accounting System**

Article 37: Payment for customs duties, taxes and other obligations

The investors shall pay for customs duties, taxes and other obligations as stipulated in this Decree.

Article 38: Use of accounting system

The accounting system in use by the border trade zone registered enterprise or individual investor shall follow the system consisted in the Enterprise Accounting Law of the Lao PDR. However, other accounting system may be used, if they are authorized either by the Ministry of Finance or by the authorities assigned by the Ministry of Finance.

Article 39: Use of currency unit

Purchase/sale and payment transactions in the Boten border trade zone shall be made in Lao kip currency as a base unit, and may be made freely and legally in any foreign currency based on the market exchange rate.

Article 40: Circulation and utilization of foreign currencies

The revenues in foreign currencies received either from commodity sales or from services business activities, or from other business transactions of the border trade zone registered enterprise, have to be transferred into the enterprise account opened at the banks in Lao PDR.

For bringing of foreign currency either into or out of the border trade zone has to be undertaken in accordance with the legal provisions relating to the management of foreign currency circulation of the Lao PDR.

## **CHAPTER VII**

### **Organization and ITrdienut of the Boten border trade z**

The Administrative Authority of Luangnamtha Province has the rights and duties to:

- 1.

Article 44: Judicial status of the Boten border trade zone management authority

The Boten border trade zone management authority is a state administrative authority having the status of judicial person and possessing its own stamp for its official activities; it also has its currency account, and its legal rights/obligations either to make an accusation or to be accused before the court of justice, has its own expenditure's budget from the government contribution. All the income gained from the trade zone shall belong to the government and shall be transferred to national treasury as required by law.

The Boten border trade zone authority has judicial status from the date of the agreement establishing Boten border trade zone authority has been signed by the governor.

### **CHAPTER VIII**

#### **Settlement of Dispute and Measures against violator**

Article 45: Settlement of dispute

Whenever a dispute arises during the business activities of production, trade and services in the Boten border trade zone, the parties concerned shall seek for ways to settle such dispute by taking into account a principle of mutual compromise.

Article 46: Arbitration and complaint

If the compromising type of dispute settlement fails, or a party in the dispute disagrees on the type of arbitration as mentioned in Article 45 above, those parties may either ask for an arbitration from the Management Authority of Boten border trade zone or the Administrative Authority of Luangnamtha Province or the Settlement of Economic Dispute Authority, or the party in question may lodge the complaint with a court of justice to proceed with the case in accordance with the Lao legislation and international conventions to which the Lao PDR is a party.

Article 47: Measure against violator

An individual or a judicial person found in violation inside/outside the Boten border trade zone shall be responsible for his violation in accordance with the laws and regulations of the Lao PDR.

### **CHAPTER IX**

#### **Final Provisions**

Article 48: Implementation

The Administrative Authority of Luangnamtha Province shall actively coordinate with other parties or sectors concerned to successfully implement the Decree.

Article 49: Effectiveness

The Decree is effective from the date of its signature.

Vientiane, 08 October 2002

Prime Minister

Signed: Bounhang VORACHITH